

PROB 12A
(7/93)

UNITED STATES DISTRICT COURT
for
Western District of Texas

Report on Offender Under Supervision

Name of Offender: Jose Rafael Guerra

Case Number: A-08-CR-369(1)-SS

Name of Sentencing Judicial Officer: Honorable Sam Sparks, Senior United States District Judge

Date of Original Sentence: February 13, 2009

Original Offense: Felon in Possession of a Firearm, in violation of 18 U.S.C. §§ 922(g)(1) & 924(a)(2)

Original Sentence: 120 months' imprisonment to be served consecutively to the re-sentence imposed in Docket No. A-08-CR-155, for a total of 144 months' imprisonment, followed by a three-year term of supervised release. Special conditions include substance abuse treatment; financial disclosure; mental health treatment; workforce development; alcohol abstinence; shall take any and all prescribed medication if directed by the treatment provider; no association with the Texas Mexican Mafia or any prison/street gang with the exception of immediate family members; and a \$100 special assessment (satisfied)

Type of Supervision: Supervised Release

Date Supervision Commenced: July 19, 2019

Assistant U.S. Attorney: Ashley C. Hoff

Defense Attorney: William H. Ibbotson (AFPD)

PREVIOUS COURT ACTION

On June 24, 2019, a Probation Form 12B was filed with the Court. The defendant's conditions were modified to include placement at a Residential Re-entry Center for a period of up to 180 days upon commencement of his term of supervised release.

On December 29, 2019, a Probation Form 12C was filed with the Court to address the defendant's December 24, 2019 arrest for an assault charge. On January 10, 2020, the defendant appeared in Court for his revocation hearing. He was continued on supervision with the added conditions: participation in the Location Monitoring Program for a period of 90 days and the search condition. The assault charge still has not been filed and remains pending. On April 9, 2020, Guerra completed the Location Monitoring Program.

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NONCOMPLIANCE SUMMARY

Violation of Mandatory Condition No. 1: "The defendant shall not commit another federal, state, or local crime."

Nature of Noncompliance: According to the Affidavit of Probable Cause for Arrest, on April 9, 2020, officers with the Gillespie County Sheriff's Office arrested the defendant and charged him with Evading Arrest or Detention with Vehicle (felony), Criminal Mischief \$750 to \$2,500 (misdemeanor), and Accident Involving Damage to Vehicle Less Than or Equal to \$200 (misdemeanor). The following are details related to the arrest: On April 9, 2020, the Gillespie County Sheriff's Office (GCSO) was notified of a hit and run that occurred at Friendship Lane and South Highway 87 in Fredericksburg. A description of the vehicle that left the scene was provided. A GCSO deputy observed the described vehicle and attempted to make a traffic stop; however, the vehicle gained speed and fled south on Highway 87 towards Comfort. Speeds reached well over 100 miles per hour as the vehicle continued to flee, swerving into oncoming traffic and disregarding the multiple deputies pursuing with activated emergency lights and sirens. Several miles outside of Comfort, a Kendall County Sheriff's Office deputy deployed stop sticks which damaged the rear driver's side tire of the fleeing vehicle. The vehicle lost control and went into a ditch area. It slid into a tree and rolled several times. The driver of the vehicle was identified as Jose Rafael Guerra. He was arrested and secured in a GCSO patrol unit until Kendall County EMS arrived. While waiting for EMS, Guerra kicked the window frame of the patrol unit door, causing it to bend out. Prior to being transported to the Fredericksburg Memorial Hospital Emergency Room by EMS for evaluation, a GCSO deputy attempted to handcuff Guerra to the stretcher; however, he started resisting. He became physically aggressive and attempted to bite the deputy. Guerra was restrained and ankle shackles were also applied. He was medical cleared and transported to the Gillespie County Jail. Guerra resisted law enforcement officers at the jail and was placed in a restraint chair. On April 10, 2020, he posted a \$1,500 surety bond and was released. As of this writing, cases have not been filed with the Gillespie County Courts.

U.S. Probation Officer Action: In an effort to address Guerra's non-compliance while allowing him to maintain employment, on April 14, 2020, he was verbally presented with a Probation Form 49, recommending his supervised release conditions be modified to include participation in the Location Monitoring Program. Guerra refused to participate in the program. As such, the probation office respectfully requests no adverse action be taken at this time to allow the state court to dispose of said cases. Accordingly, the Court reserves the right to revisit this allegation in the future. In addition, should Guerra incur any further violations, the Court will be immediately notified.

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Approved by,

Hector J. Garcia
Supervising U.S. Probation Officer

Respectfully submitted,

Heather M. Durand
U.S. Probation Officer
Date: April 16, 2020

THE COURT ORDERS:

No Action

Submit a Request for Modifying the Conditions or Term of Supervision

Submit a Request for Warrant or Summons

Other _____



Honorable Susan Hightower
United States Magistrate Judge

Date: April 17, 2020